THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2004-0342, State of New Hampshire v. Christopher Chartier, the court on March 14, 2005, issued the following order:

Following a jury trial, the defendant, Christopher Chartier, was convicted on eleven sexual offense charges. On appeal, he contends that the trial court erred in denying his motion to dismiss indictments 03-S-025 and 03-S-026 because the State failed to present sufficient evidence that he committed the aggravated felonious sexual assaults charged within the time frame specified in the indictments. We affirm.

"In an appeal challenging the sufficiency of the evidence, the defendant carries the burden of proving that no rational trier of fact, viewing the evidence in the light most favorable to the State, could have found guilt beyond a reasonable doubt." State v. Flynn, 151 N.H. 378, 382 (2004). "In reviewing the sufficiency of the evidence, we examine each evidentiary item in the context of all the evidence, not in isolation." Id.

We will assume without deciding that the State was required to prove the time frame alleged in the indictments, i.e., between August 1, 1998, and April 30, 1999. The victim testified that the assaults alleged in the indictments occurred before a University of New Hampshire hockey game and that she began attending those games when she was ten years old. She also testified that she was born in July 1988. Although she testified that she thought the defendant was fifteen at the time of the assault, she indicated that she was unsure about his age. A review of her testimony provides a strong contrast between her certainty as to the age when she began attending the hockey games and her uncertainty about the age of the defendant. While the victim's testimony may have been conflicting, it did not require dismissal of the indictments. See State v. Giles, 140 N.H. 714, 717 (1996) (jury may discount victim's equivocations about age in light of her earlier time-specific statements about assault). Given the record before us, we find no error in the trial court's ruling.

Affirmed.

DALIANIS, DUGGAN and GALWAY, JJ., concurred.

Eileen Fox,
Clerk